

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS,)
)
Plaintiff,) C.A. No.: 04-1350 (GMS)
)
v.)
)
SYLVIA FOSTER, LANCE SAPERS,)
DAVE MOFFITT, R. GRAY,)
MR. JOHNSON, JOHN JOE,)
)
Defendants.)

**DEFENDANT DR. SYLVIA FOSTER'S RESPONSE TO PLAINTIFF'S
MOTION FOR DISCLOSURE FOR HANDWRITTEN INFORMATION TO BE
TRANSLATED INTO USABLE FORM, PURSUANT TO RULE 37**

COME NOW, Defendant, Dr. Sylvia Foster, by and through her undersigned counsel and responds to Plaintiff's Motion for Disclosure for Handwritten Information to be Translated into Usable Form, Pursuant to Rule 37, and in support thereof, avers the following:

1. Plaintiff, Jimmie Lewis, filed the present Motion on January 8, 2007 requesting typed memorandums of various handwritten information provided to Plaintiff.
2. Plaintiff concedes Defendant, Dr. Sylvia Foster, responded to a previous request for discovery materials on September 26, 2006 by producing a packet of medical records and documentation reflecting the Plaintiff's treatment while at the Delaware Psychiatric Center.
3. Pursuant to Federal Rules of Civil Procedure 34, Dr. Foster provided true and accurate copies of the documentation previously requested by Plaintiff. Said rule does not require a party to put in type written form any handwritten information contained on the documents provided.

4. Plaintiff has failed to present any authority to reflect the request which was made. Ultimately, Plaintiff's request is nothing more than an additional request for discovery which is not proper. The Court currently has pending a Motion for Protective Order filed by Defendant, Dr. Sylvia Foster, to prevent Plaintiff from issuing excessive discovery requests.

4. In the alternative, Plaintiff's request is for an interpretation of the handwritten notes, some of which were written by Plaintiff himself. This request is not valid and does not serve any purpose beyond unnecessary expense to accommodate the repeated discovery requests issued by the Plaintiff. As stated above, Federal Rules of Civil Procedure 34 requires true and accurate copies of the documents requested to be provided; not interpretations of the handwritten notes included within the documents.

5. Additionally, the Plaintiff has previously submitted a Motion for Disclosure requesting the same information which is presently being requested in this Motion. Defendant, Dr. Sylvia Foster, hereby incorporates the arguments made in our response to the Plaintiff's prior Motion for Disclosure as though fully stated herein. A copy of Defendant, Dr. Sylvia Foster's, Response to Plaintiff's Motion for Disclosure Pursuant to Rule 37 is attached hereto as Exhibit "A".

6. At this time, the Court has not ruled on the outstanding Motion for Protective Order. Until a ruling is made on said Motion, Defendant, Dr. Sylvia Foster's position is to refrain from responding to a repeated discovery request submitted by Plaintiff in this case. In the event the Court rules responses are necessary from Defendant, Dr. Sylvia Foster, then efforts will be undertaken to abide by the ruling of the Court.

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Therefore, in light of the arguments submitted above and responses thereto, Defendant, Dr. Sylvia Foster, respectfully requests this Honorable Court to deny the Motion for Disclosure for Handwritten Information to be Translated into Usable Form, Pursuant to Rule 37 filed by Plaintiff.

RESPECTFULLY SUBMITTED,

REGER RIZZO KAVULICH & DARNALL LLP

/s/ Louis J. Rizzo, Jr.

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Dated: 1-18-2007

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify on this 18th day of January, 2007 that a true and correct copy of Defendant Dr. Sylvia Foster's Response to Plaintiff's Motion for Disclosure for Handwritten Information to be Translated into Usable Form, Pursuant to Rule 37 has been served electronically and/or by first class mail, postage prepaid, to the following:

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Delaware Correctional Center
Smyrna, DE 19977

Gregory E. Smith
Deputy Attorney General
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Dated: 1-18-2007